

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

MONDAY AUGUST 2, 1999

DIVISION ONE

A084389 -- Central Parking System of California, Inc., et al., v. Port of Oakland.

The order filed January 31, 1997, imposing sanctions of \$750 is vacated. In all other respects the judgment and orders on appeal are affirmed. Costs are awarded to respondent. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A085121 -- The People v. Paul Edwards.

Therefore, the judgment is modified to give appellant 25 days' presentence credit and to strike all punishment for the enhancements. The trial court is directed to amend the abstract of judgment to so indicate and to forward a copy thereof to the Department of Corrections. As modified, the judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A087804 -- In re M. Kurbegovich, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

A084100 -- The People v. Christopher Braddi.

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Monday August 2, 1999 (continued)

A087426 -- Seidelman Associates, Inc., v. The Superior Court of Contra Costa County; Tahson Bakr, et al., R.P.I.

By the Court: The petition for writ of mandate is denied. Kline, P.J.

A087580 -- In re Darryl Mark Robinson, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

DIVISION THREE

A082216 -- The Housing Group v. Great American Insurance Company.

The appeal is dismissed. Each side will bear their own costs on appeal. (Cal. Rules of Court, rule 26(a); *Don Jose's, supra*, 53 Cal.App.4th at p. 119.) Parrilli, J. We concur: McGuiness, P.J., Walker, J. (Not for Publication.)

A083297 -- Golden Gateway Center v. San Francisco Residential Rent Stabilization and Arbitration Board.

We hold that a landlord who undertakes to perform reasonably necessary repair and maintenance work on rental property, which has the effect of temporarily interfering with or preventing the tenant's full use of housing services, but does not substantially interfere with the right to occupancy of the premises as a residence, does not effectuate a decrease in housing services within the meaning of the San Francisco rent control ordinances. Accordingly, we reverse the trial court's denial of GGC's petition for writ of mandate seeking to overturn the Board's decision ordering a reduction in the petitioning tenants' rent. We affirm, however, the trial court's denial of GGC's claim for declaratory relief, as it failed to present evidence to support its claim. The matter is remanded for further proceedings. GGC shall recover its costs on appeal. Walker, J. We concur: McGuiness, P.J., Parrilli, J. (Certified for Partial Publication.)

Monday August 2, 1999 (continued)

DIVISION FOUR

A086910 -- In re Jordan R., a Person Coming Under the Juvenile Court Law.

The order terminating reunification services and setting a Selection and Implementation Hearing (§ 366.26) complies with the governing law and is supported by substantial evidence. The petition for an extraordinary writ is denied on the merits. (Welf. & Inst. Code, § 366.26, subd. (l); Cal. Rules of Court, rule 39.1B (o); see *In re Julie S.* (1996) 48 Cal.App4th 988, 990-991.) Our decision is final in this court immediately. Hanlon, P.J. We concur: Poché J., Reardon, J. (Not for Publication.)

DIVISION FIVE

A085109 -- The People v. Thomas Lee Manney.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A085047 -- The People v. Edward Antonio Molina.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday August 3, 1999

DIVISION TWO

A087602 -- Ricardo Oropeza v. The Superior Court of San Francisco County; The People of the State of California, R.P.I.

By the Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

A087290 -- Thomas Kravit v. The Superior Court of San Francisco County; The People of the State of California, R.P.I.

By the Court: The petition for writ of mandate /stay is denied. Haerle, Acting P.J.

DIVISION FIVE

A083281 -- The People v. Antonio Armstrong.

We affirm the judgment. Jones, P.J. We concur: Haning, J., Stevens, J.
(Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday August 4, 1999

DIVISION ONE

A087192 -- In re Patrick S., a Person Coming Under the Juvenile Court Law.

The challenged orders are supported by substantial evidence. (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1021.) The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for September 2, 1999. Therefore, our decision is final in this court immediately. Stein, Acting P.J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

A084106 -- The People v. John S. Morgan.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A084699 -- Aida R. Hittig et al., v. Jack Smith et al.

Order modifying opinion and denying rehearing; [No Change in Judgment.]

By the Court: it is ordered that the opinion filed herein on July 7, 1999, be modified in the following particulars: (SEE ORDER) There is no change in the judgment. The petition for rehearing is denied. Swager, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

Wednesday August 4, 1999 (continued)

DIVISION TWO

A085021 -- In re Lashonda R., a Person Coming Under the Juvenile Court Law.

The appeal is hereby dismissed as moot. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

DIVISION FOUR

A081650 -- The People v. Kurt Abron.

The judgment is affirmed. Poché, J. We concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

A083573 -- The People v. William Harry Minnix.

The judgment is affirmed. Reardon, J. We concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

DIVISION FIVE

A084583 -- Rodney L. Weaver, as Trustee, etc., v. Louis G. Bagliere, Jr., et al

The judgment is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

A083685 -- Christopher E. Grell, Individually and as Executor, etc., v. Laci Beau Corporation

David Helphrey, Individually and as Executor, etc., et al., Laci Beau Corporation.

The order is affirmed. Costs to respondent. Haning, J. We concur: Jones, P.J., Stevens, J. (Certified for Partial Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, August 4, 1999

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: Corrigan, J., Parrilli, J., Walker, J., and I. Calanoc, Deputy Clerk.

- A080890 The People
 v.
 Shepard Scott Sanders.
 (The judicial panel for this case includes P.J. McGuinness, J. Walker, and J. Parrilli.) Cause called. Each counsel waived P.J. McGuinness' presence. Argued by David Sundelson, counsel for appellant Sanders, and Violet M. Lee, counsel for respondent. Letter brief from each party by August 13, 1999, at which time cause will be submitted.
- A081405 Larry Neverkovec,
 v.
 Joseph Gregory Fredericks.
 Cause called and argued by Karen Blank and Harry Roth, counsel for appellant Neverkovec, and Lisa M. U'Ren, counsel for respondent. Cause ordered submitted.
- A082230 O. S. Williams, Jr.
 v.
 William B. Miller, et al.
 Cause called and argued by Thomas John LaLanne, counsel for appellant Williams, Jr., and Robert James Donovan, counsel for respondent. Cause ordered submitted.

Court Adjourned

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday August 5, 1999

DIVISION TWO

A087856 -- Gerard Jones v. The Superior Court of Contra Costa County; the People of the State of California, R.P.I.

By the Court: The petition for writ of mandate/prohibition is denied. Haerle, Acting P.J.

A087834 -- In re Jonathan West, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

A086877 -- In re David Miranowski, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

A085469 -- Donald A. Paton v. State of California.

By the Court: Appellant's motion to reinstate the appeal is granted. Appellant's request to stay the appeal is denied. Appellant is granted 60 days from the date of this order in which to file his opening brief. Failure to file the opening brief within this time period will result in dismissal pursuant to Calif. Rules of Court, rule 17 (a). No further extensions will be granted. Kline, P.J.

Thursday August 5, 1999 (continued)

DIVISION THREE

A084491 -- City of Rohnert Park v. Paul D. Stutrud.

We reverse and remand for the trial court to enter judgment denying the city's petition seeking to establish the validity of the Fire Suppression Benefit Assessment. Appellant shall recover costs on appeal. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A084400 -- Leroy A. Rasmussen v. The County of Sonoma et al.

The purported appeals are dismissed. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

DIVISION FOUR

A082909 -- The People v. Gregory Lee.

We find no error in the denial of the *Wheeler* motion and no prejudicial error in the court's rulings concerning defendant's statements to the victim. Accordingly, the judgment is affirmed. Sepulveda, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A083019 -- Reza Valiye v. California State Department of Motor Vehicles, et al.

For all the foregoing reasons, the judgment of the trial court is affirmed. Costs to respondent. Sepulveda, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday August 6, 1999

DIVISION TWO

A087468 -- Alan Hasso v. The Superior Court of Napa County; Albion Surveys, Inc., R.P.I.

By the Court: Real party having notified this court that petitioner Alan Hasso has been dismissed from the underlying lawsuit, the petition for writ of mandate/stay is dismissed as moot. Haerle, Acting P.J.

A087865 -- Brent Randel Hirschert v. The Superior Court of Marin County; The People of the State of California, R.P.I.

By the Court: The petition for writ of mandate/prohibition/stay is denied. Haerle, Acting P.J.

A083000 -- The People v. Carlos Martinez.

The judgment is reversed, and we remand for a new trial. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A084533 -- In re Sabrina L., a Person Coming Under the Juvenile Court Law.

A086809 -- In re Julie L. on Habeas Corpus.

The appealed order from the .26 hearing (A084533) is affirmed. The petition for writ of habeas corpus (A086809) is summarily denied. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Friday August 6, 1999 (continued)

DIVISION FOUR

A079691 -- The People v. Brendell Levi.

Order modifying opinion and denying rehearing.

The Court: It is ordered that the opinion filed herein on July 7, 1999, be modified in the following particulars: (SEE ORDER) Appellant's petition for rehearing is denied. There is no change in the judgment. Hanlon, P.J. (Not for Publication.)

A085154 -- In re Dejon H. et al., a Person Coming Under the Juvenile Court Law.

The orders are affirmed. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

DIVISION FIVE

A083954 -- In re Starr W., a Person Coming Under the Juvenile Court Law.

The dispositional order is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday August 9, 1999

DIVISION ONE

A084428 -- The People v. Terri Shellene Bonnetta.

The judgment is affirmed. Strankman, P.J. We concur Stein, J., Swager, J.
(Not for Publication.)

A085740 -- Julie Passanisi et al., v. Martin Hertz & Associates et al.

The judgment is affirmed. Strankman, P.J. We concur: Swager, J.,
Marchiano, J. (Not for Publication.)

DIVISION TWO

A087745 -- Susann Margreth Bonds v. The Superior Court of San Mateo County; Barry Lamar Bonds, R.P.I.

By the Court: The petition for writ of mandate/prohibition is denied. Petitioner's challenge pursuant to Code of Civil Procedure section 170.6, subdivision (2), is denied because the issue of appellate fees and costs is distinct from the issues before us on appeal in A075328/A076586, and because review having been granted by the California Supreme Court in the above-referenced matter, petitioner's challenge pursuant to section 170.6, subdivision (2), is premature. Petitioner's challenge pursuant to Code of Civil Procedure section 170.1 is denied as untimely. (Code Civ. Proc., § 170.3, subd. (d).) Kline, P.J.

Monday August 9, 1999 (continued)

DIVISION THREE

A082230 -- O.S. Williams, Jr., v. William B. Miller et al.

We therefore reverse the judgment and remand with instructions to enter judgment for plaintiff Williams. Each party to bear their own costs. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

**A087053 -- Calvin F., Sr.v. The Superior Court of Solano County;
Solano County Health & Social Services Department, R.P.I.**

**A087054 -- Kelley L., v. The Superior Court of Solano County; Solano
County Health & Social Services Department.**

The order terminating reunification services to both parents and setting a hearing under section 366.26 complies with the governing law and is supported by substantial evidence. The petition of each parent for an extraordinary writ is denied on the merits. (§ 366.26, subd. (1); Cal. Rules of Court, rule 39.1B(o); see *In re Julie S.*, (1996) 48 Cal. App.4th 988, 990-991.) This decision shall be final immediately. Poché, J. We concur; Hanlon, P.J., Sepulveda, J. (Not for Publication.)

DIVISION FIVE

A082656 -- The People v. Vincent Lesky.

The judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday August 10, 1999

DIVISION ONE

A085454 -- The People v. Gerry Johnson.

The trial court shall amend the abstract of judgment as indicated above, forward a corrected certified copy to the Department of Corrections, and the Department will modify its records accordingly. In all other respects, the judgment is affirmed. Marchiano, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A083168 -- Kathleen M. Gibbs v. American Airlines, Inc.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Marchiano, J. (Certified for Publication.)

A082849 -- Howard Marcus Lerch v. Contra Costa Properties, Inc. et al.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Marchiano, J. (Not for Publication.)

DIVISION TWO

A086238 -- Stuart Depper v. The Superior Court of Alameda County; The People of the State of California, R.P.I.

Let a peremptory writ of mandate issue commanding respondent court to vacate its order of March 10, 1999, denying petitioner's Code of Civil Procedure section 170.6 challenge and to issue a new order granting said challenge. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Certified for Publication.)

Tuesday August 10, 1999 (continued)

A079287 -- The People v. Amado Fronda Taylor.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J.
(Not for Publication.)

A084642 -- Norbert A. Schueller v. Orrin Carpenter et al.

The judgment of dismissal is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A084779 -- In re Daniel M., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Lambden, J. We concur; Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A082343 -- The People v. Elza Paul Walters III.

For all the foregoing reasons, we affirm the judgment. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A087885 -- Robert Turner v. The Superior Court of Alameda County; The People of the State of California, R.P.I.

By the Court: The petition for writ of mandate /prohibition is denied. Haerle, Acting P.J.

DIVISION THREE

A083572 -- The People v. Henry Jack Pulido.

The judgment is affirmed. Parrilli, J. We concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Tuesday August 10, 1999 (continued)

DIVISION FIVE

A083794 -- Vincent Lamaestra et al., v. City and County of San Francisco.

The judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J.
(Not for Publication.)

A082612 -- W. Chapot Construction Co., v. Trustees of the California State University.

The judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J.
(Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, August 10, 1999

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Poche, J. and Reardon, J.; Channing Hoo, Deputy Clerk; Elizabeth Swanson, Bailiff.

A082063 John King et al.
 v.
 National Benevolent Association, etc. et al.
Cause called. Robert J. Stumpf, Jr. argued for appellants/cross-respondents National et al. Joseph M. Alioto argued for respondents/cross-appellants. Cause submitted.

The judicial panel for the following case consists of Hanlon, P.J., Reardon, J. and Sepulveda, J.

A085275 Dan Briggs et al.
 v.
 Jack Waid et al.
Cause called. Counsel confirmed waiving J. Sepulveda's presence. Kevin Anderson argued for appellants Briggs et al. Gary Kershner argued for respondents. Cause submitted. (Companion case A085683, *Briggs et al. v. Hartman*, was not argued because the parties there did not request oral argument.)

The Court adjourned at 10:31 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday August 11, 1999

DIVISION ONE

A086474 -- Employers Insurance of Wausau v. The Superior Court of San Francisco County; International Paper Company et al, R.P.I.

By the Court: Therefore, we direct issuance of a peremptory writ of mandate commanding respondent San Francisco Superior Court, in its Action No. 974350, to set aside its orders on summary adjudication filed March 1, 1999, March 18, 1999 and March 31, 1999 and to issue instead an order denying the motion of International Paper Company and Masonite Corporation for summary adjudication of Wausau's duty to defend. The parties shall bear their own costs. Before Strankman, P.J., Stein., and Marchiano, J. (Not for Publication.)

A086924 -- International Paper Company et al., v. The Superior Court of San Francisco County; American Motorists Insurance Company, R.P.I.

Therefore, let a peremptory writ of mandate issue commanding respondent San Francisco Superior Court, in its Action No. 974340, to set aside its orders filed April 15, 1999 and May 10, 1999, and to instead deny AMICO's "motion for summary adjudication as to the batch clause issue" solely on the ground that the motion fails to comply with Code of Civil Procedure section 437c, subdivision (f)(1) without prejudice to AMICO raising the issue as the subject of any other proper motion. The parties shall bear their own costs. Before Strankman, P.J., Stein, J., and Marchiano, J. (Not for Publication.)

Wednesday August 11, 1999 (continued)

DIVISION TWO

A081057 -- The People v. William Anderson Pone.

A083237 -- In re Pone, on Habeas Corpus.

The appeal is dismissed. The petition for writ of habeas corpus is granted and the matter is remanded to the trial court for a determination and award of all custody credit due petitioner. Upon finality, the clerk shall remit a certified copy of this opinion and order to the superior court for filing, and respondent shall serve another copy thereof on the prosecuting attorney in conformity with section 1382, subdivision (b). (See *In re Harris (Charles)*, *supra*, 5 Cal.4th at p. 851.) Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Wednesday August 11, 1999 (continued)

A077990/A078075/A079414 -- City and County of San Francisco v. Ron Daley et al.

Order modifying opinion and denying rehearing. The court: It is ordered that the opinion filed herein on July 13, 1999, be modified in the following particulars: (SEE ORDER) Ron's July 28, 1999, petition for reconsideration is construed as a petition for rehearing, and denied. Carolyn's July 28, 1999, request for reconsideration is construed as a petition for rehearing, and denied. In appeal No. A078075, respondent shall file its answering brief within 30 days from the date of this order. Kline, P.J. (Not for Publication.)

A084959 -- Carol Mardeuz v. Leo Magers.

The order appealed from is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A087363 -- Triad Systems Corporation, et al, v. The Superior Court of Alameda County; Legacy Partners Commercial, Inc., R.P.I.

By the Court: Let a peremptory writ of mandate issue directing the Alameda County Superior Court to vacate its order denying petitioners' motion for summary judgment/summary adjudication, to reconsider the motion, and to enter a new order in compliance with Code of Civil Procedure section 437c, subdivisions (f) and (g), and with this opinion. Costs are awarded to petitioners. Before Kline, P.J., Haerle, J., Ruvolo, J. (Not for Publication.)

Wednesday August 11, 1999 (continued)

DIVISION THREE

A082368 -- In re Jazzma W., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Corrigan, J. We concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A080019 -- Willard Tandberg v. California Pacific Medical Center.

By the Court: Since this court's July 23, 1999 opinion does not meet the standard for publication as set forth in rule 976(b) of the California Rules of Court, the request for publication is denied. Pursuant to rule 978 (a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the opinion, and a copy of this order. McGuiness, P.J.

DIVISION FOUR

A086078 -- The People v. Joel Cruz Diaz.

Judgment affirmed. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

Wednesday August 11, 1999 (continued)

DIVISION FIVE

A085472 -- In re Anthony R., a Person coming Under the Juvenile Court Law.

The order is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A084530 -- In re Raul N., Maria N., and Angelita N., Persons Coming Under the Juvenile Court Law.

The order terminating parental rights is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday August 12, 1999

DIVISION TWO

A086265 -- Michiko Zepeda et al., v. T.Y. Lin International, Inc.

The judgment is affirmed. TLYI is awarded costs. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A087968 -- Gerard Jones v. The Superior Court of Contra Costa County; The People of the State of California, R.P.I.

By the Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

A084637 -- In re Janee J., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Certified for Publication.)

A077665 -- Robert H. Overly et al., v. Ingalls Shipbuilding, Inc.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Certified for Partial Publication.)

Thursday August 12, 1999 (continued)

DIVISION THREE

A087174 -- In re Fanny S., a Person Coming Under the Juvenile Court Law.

Writ is denied. Walker, J. We concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

DIVISION FOUR

A082458 -- In re the Marriage of Jennifer and James DeRoque.

The order is affirmed. All parties shall bear their respective costs of appeal. Poché, Acting P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday August 13, 1999

DIVISION TWO

A082032 -- In re Marriage of Wharton.

The judgment appealed from is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

DIVISION FOUR

A082170 -- The People v. Kelly James Lamburth.

A087012 -- In re Kelly James Lamburth on Habeas Corpus.

As to the appeal (A082170), the judgment of conviction is affirmed. As to the petition for writ of habeas corpus (A087012), we issue herewith an order to show cause returnable in the superior court at a time and date specified by the presiding judge, directing the Director of the Department of Corrections and the Warden of High Desert State Prison to show cause why petitioner, as a result of alleged ineffective assistance of counsel, should not be granted a new court trial before a different trial judge on the allegation that he suffered a prior 1985 burglary conviction within the meaning of sections 1170.12 and 667, subdivision (a). A written return to the order to show cause shall be filed by respondent and petitioner shall then file a traverse thereto. Based upon these formal pleadings, the superior court must determine if an evidentiary hearing is needed and, if so, to conduct one, make findings, and grant or deny the relief identified herein. In all other respects, the petition is denied. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

DIVISION FIVE

A082378 -- Richard M. Grabstein et al., v. William H. Sigman.

The order awarding sanctions is vacated. Stevens, J. I concur: Haning, J.
See concurring opinion of Jones, P.J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday August 16, 1999

DIVISION TWO

A087685 -- Jack Rubyn; Marin Wine and Food Society , et al., vs. The Superior Court of Marin County; Barry Boothe, et al, R.P.I.

By the Court: The petition for writ of mandate/prohibition/stay is denied. Haerle, J. Acting P.J.

A087991 -- In re Ralph Antonio Taylor, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Haerle, J. Acting P.J.

A083885 -- Michael Quillian v. Crescent Jewelers, Inc.

The judgment is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

DIVISION THREE

A082395 -- California State Automobile Association Inter-Insurance Bureau v. Richard L. Howland.

The judgment is affirmed. Appellant to bear costs of appeal. McGuiness, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Monday August 16, 1999 (continued)

A082890 -- Northeast Santa Rosa Environment Alliance v. City of Santa Rosa et al; St . Francis Joint Venture et al., R.P.I.

The facts of this case present a fundamentally *local* issue. The City Council was uniquely situated to determine the existence or nonexistence of an allegedly significant adverse environmental impact. (*Citizens' Com. to Save Our Village v. City of Claremont, supra*, 37 Cal.App.4th at p. 1171.) We conclude that appellant has failed to produce the requisite substantial evidence giving rise to a fair argument that the proposed Project may have a significant effect on the environment. The City proceeded as required by law, and did not abuse its discretion in adopting a mitigated negative declaration on the Project. The trial court carefully and comprehensively reviewed the administrative record in making its decision to deny appellant's application for writ. We fully agree with its conclusion, and therefore affirm. McGuiness, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A085124 -- The People v. Manuel V. Sotelo.

There was no error in either the entry of the plea or the imposition of sentence. There are no meritorious issues to be argued. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

DIVISION FOUR

A081972 -- Thomas C. Roscoe v. California Highway Patrol et al.

The judgment is affirmed. Reardon, J. We concur: Poché, Acting P.J., Sepulveda, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday August 17, 1999

DIVISION TWO

A087553 -- In re Richard Curtis Evans, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Haerle, J.
Acting P.J.

**A083096 -- In re Theodore H., a Person Coming Under the Juvenile
Court Law.**

The portion of the order terminating reunification services is reversed and the remainder of the order is affirmed. The juvenile court is directed to enter a new, supplemental order requiring the Agency to develop a reunification plan consistent with the views expressed herein. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday August 18, 1999

DIVISION ONE

A084515 -- The People v. Edward Bert Steele, Jr.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J.,
Marchiano, J. (Not for Publication.)

DIVISION TWO

**A085474 -- In re Yessica J., a Person Coming Under the Juvenile Court
Law.**

In sum, we have thoroughly reviewed the record and find no arguable issues
which require further briefing. The judgment is affirmed. Haerle, J. We concur:
Kline, P.J., Lambden, J. (Not for Publication.)

DIVISION THREE

A081405 -- Larry Neverkovec v. Joseph Gregory Fredericks.

The judgment is reversed. The trial court is directed to enter an order
denying Fredericks' motion for summary judgment against Neverkovec. The
parties shall bear their own costs on appeal. Parrilli, J. I concur: Corrigan, Acting
P.J. See concurring opinion of Walker, J. (Certified for Publication.)

Monday August 18, 1999 (continued)

A087435 -- Danilo Molieri v. City of South San Francisco.

This appeal is moot due to the City's filing of the statement of issues. We dismiss the appeal. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday August 19, 1999

DIVISION TWO

A079134 -- The People v. Michael Edward Tillman.

A083670 --- In re Michael Edward Tillman, on Habeas Corpus.

By the Court: The request for leave to late file petition for rehearing is granted. The petition for rehearing is denied. Haerle, Acting P.J.

DIVISION THREE

A084771 -- People v. Leland Adair Smith.

Our independent review of the record reveals no errors or issues requiring further briefing. Affirmed. Walker, J. We concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A087180 -- In re Noah S., a Person Coming Under the Juvenile Court Law.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The request for stay of the section 366.26 hearing, set for August 27, 1999, is denied. Our decision is final immediately. (Cal. Rules of Court, rule 24(d).) Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Thursday August 19 1999 (continued)

A083600 -- Berclain America Latina, S.A. De C.V., et al., v. Baan Company N.V., et al.

By the Court: The written opinion which was filed on July 27, 1999, has now been certified for publication pursuant to rule 976(b) of the California Rules of Court, and it is ordered published in the official reports. McGuiness, P.J.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday August 20, 1999

DIVISION ONE

A081440 -- Patricia Holmes v. Sandra Kruger Lerner et al.

A081435 -- Patricia Holmes v Sandra Kruger Lerner et al.

The judgment against Soward for interference with contract is reversed. The order granting a nonsuit to Soward on Holmes' aiding and abetting and civil conspiracy causes of action relating to fraud, breach of fiduciary duty and constructive fraud is reversed. In all other respects, the judgment and postjudgment order are affirmed. The parties are to bear their own costs on appeal. Marchiano, J. We concur: Strankman, P.J., Stein, J. (Certified for Partial Publication.)

DIVISION FOUR

A085099 -- The People v. Alander Leon Smith.

There are no meritorious issues to be argued. The order is affirmed. Hanlon, P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A084743 -- The People v. Miguel Espinosa Canesco.

The judgment is affirmed. Sepulveda, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

Friday August 20, 1999 (continued)

A077561, A079071 -- Pan Asia Venture Capitol Corporation v. Hearst Corporation et al.

The judgment and attorney fee order are reversed. The order denying the motion for judgment notwithstanding the verdict is affirmed. Appellants shall recover their costs. Sepulveda, J. We concur: Hanlon, P.J., Poché J. (Certified for Partial Publication.)

A086090 -- The People v. Samuel Goins.

The judgment is affirmed. Sepulveda, J. We concur: Poché J., Hanlon, P.J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday August 23, 1999

DIVISION THREE

A082906 -- The People v. Cornell Robinson.

The judgment is affirmed. Parrilli, J. We concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

A080556 -- The People v. Alonzo D. Bey.

The judgment is affirmed. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

Monday August 23, 1999

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Haning, J., Stevens, J.; and McGuiness, P. J. of Division Three on assignment by order of The Chief Justice* and Richard H. Sandvik Deputy Clerk.

A085043* Gillies Grosgurin et al.
A086381* v.
Gerald Chapman et al.
Cause called and argued by John J. Hartford, counsel for appellants, and by Jay M. Godman, counsel for respondents. Cause ordered submitted.

A085761 In re San Gabriel Valley Water Cases.
A085477 Kristin Santamaria et al.
A085482 v.
A085486 Suburban Water Systems
A085488 Cause called and argued by Christopher P. Ridout and Michele Hitt,
A085495 counsel for plaintiffs, Mary Hulett, counsel for the PUC Regulated Water
A085496 Providers, Joseph F. Butler, and W. Keith Lemieux, counsel for Non-PUC-
A085501 Regulated Water Providers, and by Barry P. Goode, counsel for the
A085502 Industrial Defendants. Cause ordered submitted.

Court adjourned at 10:05 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday August 24, 1999

DIVISION TWO

A082497 -- The People v. Clarence Andrews.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J.
(Not for Publication.)

DIVISION THREE

**A087689 -- Patricia G., v. The Superior Court of Contra Costa County;
Contra Costa County Department of Social Services, R.P.I.**

**A087690 -- Frank S., v. The Superior Court of Contra Costa County;
Contra Costa County Department of Social Services; R.P.I.**

Both petitions for extraordinary relief are denied on their merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard, supra*, 3 Cal.4th at p. 894.) Because the section 366.26 hearing is set for August 25, 1999, our decision is final in this court immediately. (Cal. Rules of Court, rule 24(d).) McGuiness, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Tuesday, August 24, 1999

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: Walker, J., Corrigan, J., Parrilli, J. and I. Calanoc, Deputy Clerk.

A084638 The People,
 v.

Gregory A.

Cause called and argued by Robert Angres, counsel for appellant, and Raymond Cardozo, counsel for respondent. Oral argument by appellant was via teleconference. Cause ordered submitted.

A083803 The Chronicle Publishing
 Company, et al.,
 v.

Department of Developmental
Services, et al..

Cause called and argued by Douglas Press, counsel for appellants, and Neil Shapiro, counsel for respondents. Cause ordered submitted.

A084231 John E. Droeger,
 v.
 Kaiser Foundation Health
 Plan, Inc.

Cause called and argued by David Singlestad, counsel for appellant, and Kennedy Richardson, counsel for respondent. Cause ordered submitted. Parrilli, J. left the bench at this point.

A083509 Syufy Enterprises, et al.,
 v.

Francis O. Scarpulla.

The court reconstituted itself to include McGuiness, J., Corrigan, J., and Walker, J. Cause called and argued by William Walker, counsel for appellant, and Teke Kelley, counsel for respondents. Cause ordered submitted.

A080034

Gina Lavoy,

v.

City of Livermore.

Cause called and argued by Byrne Conley, counsel for appellant, and Tony Tanke, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Tuesday, August 24, 1999

Court reconvened at 1:30 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness, P.J., Corrigan, J., Parrilli, J., and C. Turner, Deputy Clerk.

A083675 City and County of San Francisco,
A085764 v.

William Pon, et al.,

Cause called and argued by Ilene M. Hochstein, counsel for appellant, and Rose Ellen Heinz, counsel for respondent. Cause ordered submitted.

Justice Walker took his place on the bench. Justice McGuiness announced that Justice Corrigan, Justice Parrilli and Justice Walker will be participating on the following case.

A084863 Mia Smith,
v.

San Francisco Auto Center, et al.,

Cause called and argued by S. Chandler Visser, counsel for appellant, and James P. Tessier, counsel for San Francisco Auto Center and Norman A. Sauer, counsel for Fidelity Financial Services. Cause ordered submitted.

Justice Parrilli left the bench.

A085357 Dana G. Johnson,
v.

City of Fremont,

Cause called and argued by Steven M. McCarthy, counsel for appellant, and Peter P. Edrington, counsel for respondent. Cause ordered submitted.

A082609 Ann Muskal,
v.

Inter-Continental Hotels Corporation, et al.,

Cause called and argued by James Michael Morris, counsel for appellant, and Patrick James, counsel for respondent. Cause ordered submitted.

A084407 Eugenia Oak,

v.

Ashit Jain M.D.,

Cause called and argued by Eugenia Oak, appellant in pro per and Tyler G. Draa, counsel for respondent. Cause ordered submitted.

court adjourned

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday August 25, 1999

DIVISION ONE

A082537 -- The People v. Dale Curtis Gaines.

Accordingly, the judgment is affirmed. Swager, J. We concur; Stein, Acting P.J., Marchiano, J. (Not for Publication.)

DIVISION THREE

A084491 -- City of Rohnert Park v. Paul D. Stutrud.

By the Court: Since this court's August 5, 1999 opinion does not meet the standard for publication as set forth in rule 976 (b) of the California Rules of Court, the request for publication is denied. Pursuant to rule 978(a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the opinion, and a copy of this order. McGuiness, P.J.

DIVISION FOUR

A082400 -- The People v. Gasper Abbate, III.

The judgment of conviction is affirmed. Poché, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A083095 -- The People v. Perro Peter Lewis.

The judgment of conviction is affirmed. Poché, J. We concur: Hanlon, P.J., Reardon, J. (Certified for Partial Publication.)

Wednesday August 25, 1999 (continued)

DIVISION FIVE

A083310 -- The People ex rel. Bill Lockyer, as Attorney General, etc., v. Dennis R. Peron

The judgment is affirmed. Haning, Acting P.J. We concur: Stevens, J., Stein, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Wednesday, August 25, 1999

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Reardon, J. and Sepulveda, J.; Channing Hoo, Deputy Clerk; Lorrie Kempf, Bailiff.

A081393 Eric Cox, Sr. et al.
 v.
 Pacific Maritime Association et al.
Cause called. Philip R. Weltin argued for appellants Cox, Sr. et al.
Gregory D. Wellons argued for respondents. Cause submitted.

At this point, the court reconstituted itself to include Poche, Acting P.J., Reardon, J. and Sepulveda, J.

A086483 Elizabeth H.
 v.
 Superior Court, Contra Costa County
 Department of Social Services
Cause called. Denise Nolan argued for petitioner Elizabeth H. Michael D. Farr argued for real party in interest. Cause submitted.

A083397 People
 v.
 Calvin Peace
Cause called. Andrew J. Carroll argued for appellant Peace. Jill M. Thayer argued for respondent. Cause submitted.

A082273 Estate/Conservatorship of Henri I. Leleu, II.
A084409 Henri I. Leleu, III
 v.
 Joanne Noblitt
Causes called. Mark Johnson argued for appellant Noblitt. Matthew Matiasovich argued for respondent. Causes submitted.

A082611 Commerce & Industry Insurance Co.
v.
Chubb Custom Insurance Co.
Cause called. James Wraith argued for appellant Commerce. Stephen L. Newton argued for respondent. Cause submitted.

A084462 Snarled Traffic Obstructs Progress
v.
City and County of San Francisco
Cause called. Kelly L. Drumm argued for appellant Snarled. Lisa-Anne Wong argued for respondent. Cause submitted.

The Court adjourned at 11:35 a.m.

Courtroom Minutes
Division 4
Wednesday August 25, 1999

Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Poche, J., McGuiness, P. J., Jim Campbell, Deputy Clerk and CHP Officer Terry Tracy, Bailiff.

A073598 People,
 respondent,
 v.
 Kenneth Russo,
 appellant,

Cause called. Richard Doctoroff argued on behalf of appellant, Kenneth Russo. Ronald Niver, D.A. G., argued on behalf of respondent. Cause submitted.

At this time Reardon, J. replaced McGuiness, P.J., on the bench.

A083766 Estate of Carl Ray Nelson, Sr., Deceased.
 Josephine Rivera,
 appellant,
 v.
 Richard Allen Nelson et al.,
 respondents.

Cause called. Christopher Neary, appeared on behalf of appellant, Josephine Rivera. Reid Schantz, appeared on behalf of respondent. Cause submitted.

At this time Sepulveda, J., replaced Poche, J. on the bench.

A080918 People,
 respondent,
 v.
 Toby Arman Evans,
 appellant.

Cause called. Cynthia Thomas argued on behalf of appellant, Toby Armon Evans. Moona Nandi, D.A.G., argued on behalf of respondent. Cause Submitted.

The Court adjourned at 2:25 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday August 26, 1999

DIVISION ONE

A084612 -- The People v. Dominic Blakeney.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A084971 -- The People v. Patrick Peter Butler.

The judgment is affirmed. Stein, Acting P.J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

A085603 -- The People v. Abdullah W. Mustafaa.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A084975 -- Paul Ebiner v. Frederick Constant et al.

Accordingly, the judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

A083639 -- Christopher Freye v. California Emergency Physicians Medical Group, a California general partnership.

A084861 -- Christopher Freye v. California Emergency Physicians Medical Group, a California general partnership.

The judgment is affirmed. Respondents are awarded their costs in Appeal No. A083639. The order denying attorney fees is affirmed. Dr. Freye is awarded his costs in Appeal No. A084861. Stein, Acting P.J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

Thursday August 26, 1999 (continued)

A083306 -- Mariposa Properties v. Howard Williams.

The order denying the motion to vacate the judgment is affirmed. Costs to respondent. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

A085389 -- In re Laercio O., a Person Coming Under the Juvenile Court Law.

The orders declaring the minor a ward of the juvenile court and committing him to the CYA for a period not to exceed four years, six months are affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A084230 -- George Straggas v. USX Corporation.

The judgment is reversed. Costs on appeal to Straggas. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

DIVISION THREE

A084863 -- Mia Smith v. San Francisco Auto Center et al.

The entry of judgment on the pleadings without leave to amend is reversed. In addition, the orders finding SFAC and Fidelity to be the prevailing parties and awarding them attorney fees are reversed. Appellant shall recover her costs on appeal. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A084407 -- Eugenia Oak v. Ashit Jain.

The trial court's entry of summary judgment and denial of reconsideration are affirmed. Respondent shall recover his costs of appeal. Walker, J. We concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Thursday August 26, 1999 (continued)

A073615 & A084095 -- The People v. David Dellosso Shore.

The judgment is modified to stay imposition of sentence on the sexual battery conviction pursuant to Penal Code section 654. The superior court is directed to prepare an amended abstract of judgment incorporating this modification. In all other respects, we affirm the judgment and deny the petition for writ of habeas corpus. Corrigan, J. We concur: McGuiness, P.J., Walker, J. (Not for Publication)

DIVISION FOUR

A086340 -- In re Eric W., a Person Coming Under the Juvenile Court Law.

The dispositional order is affirmed. Poché, J. We concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

A084318 -- The People v. Ramon Carlos Juarez.

The judgment is affirmed. Poché, J. We concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

DIVISION FIVE

A086073 -- The People v. Booker T. Carlloss II.

There was no sentencing error. There are no legal issues that require further briefing. The judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

A085229 -- The People v. Kevin James Johnson.

There was no error in the sentence imposed. We therefore find no arguable issues on appeal. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

Thursday August 26, 1999

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Haning, J., Stevens, J.; and Marchiano, J. of Division One on assignment by order of The Chief Justice* and Richard H. Sandvik Deputy Clerk.

A085614 Deborah Hermann Anderson
 v.
 Curtis Allen
 Jason Stevens
 Cause called and argued by Bernard N. Wolf, counsel for appellant, and by
 Barry Vogel, counsel for respondent. Cause ordered submitted.

A080530 Joe Hopson et al.
A081719 v.
 Owens Corning
 Cause called and argued by Thomas M. Peterson, counsel for appellant, and
 by Bryce C. Anderson, counsel for respondent. Cause ordered submitted.

A085077 Dennis Hamby et al.
 v.
 City and County of San Francisco
 Cause called, no appearance by either counsel. Cause ordered submitted.

A084051 Pamela Van Camp
v.
Estate of Fosteen Johnson
Cause called and argued by Pamela Van Camp, appellant, in pro per and by Philip M. Anderson, counsel for respondent. Cause ordered submitted.

A085706 James A. Carter
v.
Russell Specter et al.
Cause called and argued by Robert H. Powsner, counsel for appellants, and by Michelle Carter, counsel for respondent. Cause ordered submitted.

A085223 Trevor Snowden
v.
Booth Creek Ski Holdings, Inc.
Cause called and argued by Philip A. Olsen, counsel for appellant, and by Timothy M. Smith, counsel for respondent. Cause ordered submitted.

A085447 In re Clifton A. Bode, On Habeas Corpus.

Cause called and argued by Catherine A. McBrien, Deputy Attorney General, counsel for appellant, and by, Nedra Ruiz, counsel for Petitioner and respondent. Cause ordered submitted.

Court recessed until 1:00 p.m.

Court reconvened at 1:00 p.m.

A084375* A. Peter Evans et al.
v.
City of Palo Alto
RMC Lonestar et al.
Cause called and argued by Vernon H. Granneman, counsel for appellant,

and by Thomas R. Gorman, counsel for respondent. Cause ordered submitted.

A084557* Sara Duryea et al.
v.
Judith H. B. Cohen et al.
Cause called and argued by Alan Charles Dell'Ario, counsel for appellants,
and by Sean M. SeLegue and Paul E. Vallone, counsel for respondents.
Cause ordered submitted.

A087145 In re Lawrence Rudy Kirk on Habeas Corpus

Cause called and argued by Jonathan B. Steel, counsel for petitioner, and
by Catherine A. Rivlin, Deputy Attorney General, counsel for respondent.
Cause ordered submitted.

Court adjourned at 2:30 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday August 27, 1999

DIVISION ONE

A086005 -- In re Latrice T., a Person Coming Under the Juvenile Court Law.

Finding no meritorious issues to be argued, we affirm the order.
Strankman, P.J. We concur: Stein, J., Marchiano, J. (Not for Publication.)

A085788 -- In re Madeline R., a Person Coming Under the Juvenile Court Law.

The order under Welfare and Institutions Code section 366.26 terminating the mother's parental rights is reversed. The matter is remanded to the Solano County Juvenile Court with directions to appoint new counsel, hold a new jurisdiction hearing, and proceed in accordance with this opinion. Strankman, P.J. We concur: Stein, J., Marchiano, J. (Not for Publication.)

A083799 -- The People v. Cornelius Joseph Nubla.

The judgment is reversed. The matter is remanded to the trial court so that it may exercise its discretion to modify appellant's sentence, if it determines that modification is warranted. The trial court further is directed to re-calculate appellant's conduct and worktime credits in accordance with the principles stated above. Stein, J. We concur: Strankman, P.J., Marchiano, J. (Certified for Publication.)

Friday August 27, 1999 (continued)

A080949 -- Francis Scarpulla et al., v. George Roscoe et al.

The order granting a new trial on the issues of public road and implied easement is affirmed. Scarpulla's cross-appeal is hereby dismissed pursuant to his stipulation. The matter is remanded to the trial court for further proceedings in accordance with this opinion. Scarpulla is entitled to costs on appeal. Marchiano, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A080861/A082543 -- Pareto Partners, Ltd. v. Inktomi Corporation et al

Order Modifying Opinion and Denying Rehearing. By the Court: It is ordered that the opinion filed herein on July 28, 1999, be modified in the following particulars: (SEE ORDER): Appellant's petition for rehearing and request for publication are denied. Kline, P.J. (Not for Publication.)

DIVISION THREE

A080890 -- The People v. Shepard Scott Sanders.

We reverse Sanders' sentence and remand for further proceedings consistent with this opinion. The conviction is affirmed. Walker, J. We concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A085113 -- The People v. Daniel Dean Steinocher.

The judgment is affirmed. McGuiness, P.J. We concur: Corrigan, J., Walker, J. (Not for Publication.)

Friday August 27, 1999 (continued)

A083509 -- SYUFY Enterprises et al., v. Francis O. Scarpulla.

The trial court's order denying Scarpulla's motion for attorney fees on the ground that there was no prevailing party in the action is reversed with directions that an order be entered finding Scarpulla to be the prevailing party on SYUFY's complaint and awarding him costs and reasonable attorney fees incurred in defending that action. That portion of the order which held, implicitly, that there was no prevailing party on the cross-complaint is affirmed. Scarpulla shall recover his costs on appeal. Walker, J. We concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

DIVISION FOUR

A082753 -- The People v. Vincent Leroy Byrd.

Sentence and judgment are affirmed. Reardon, J. We concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

DIVISION FIVE

A084410 -- In re Marriage of Jean and Robert Campbell.

The judgment is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

A084498 -- The People v. Jeremiah Samuel Presler.

The judgment of conviction is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday August 30, 1999

DIVISION ONE

A083416 -- The People v. Iran Roger Poe.

By the Court: The written opinion which was filed on July 30, 1999, has now been certified for publication pursuant to rule 976(b) of the California Rules of Court, and it is ordered published in the official reports. Stein, Acting P.J.

A084105 -- The People v. James L. Scarborough.

The judgment of conviction is affirmed. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

A084036 -- Anthony G. Sacco v. San Francisco Unified School District et al.

None of the grounds urged by respondents support the granting of the demurrer. Our decision does not mean that the District may not contract out the challenged services. We simply hold that respondents have not advanced meritorious reasons why the District may do so without complying with the relevant provisions of the Charter, including section 10.104. Accordingly, the judgment is reversed. Costs on appeal are awarded to appellant. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Monday August 30, 1999 (continued)

DIVISION THREE

A084231 -- John E. Droeger v. Kaiser Foundation Health Plan, Inc.

The judgment is affirmed. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A082609 -- Ann Muskal v. Inter-Continental Hotels and Resorts Corporation et al.

The judgment is affirmed. Appellant to bear costs of appeal. McGuiness, P.J. We concur: Corrigan, J., Walker, J. (Not for Publication.)

A082739 -- Tom Selph v. Nancy Burt.

In sum, the superior court erred in dismissing appellant's cross-complaint. The judgment is reversed. In his reply to appellant's opposition to the motion to dismiss, respondent indicated that the issues raised by way of the original complaint had been resolved. If that is the case, appellant's *Marvin* claims can proceed as an independent action. If, however, the issues raised by the complaint are still pending, we leave it to the sound discretion of the trial court whether or not severance and transfer of appellant's *Marvin* claims to a non-Family Law department is appropriate. In the interests of justice, each party to bear his or her own costs of appeal. McGuiness, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

DIVISION FIVE

A083295 -- The People v. Jody Tyrone Gordon.

The judgment of conviction is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

Monday August 30, 1999 (continued)

**A087201 -- Regina D. v. The Superior Court of Sonoma County;
Sonoma County Department of Human Resources, R.P.I.**

The petition for extraordinary writ review and the request for stay are denied on their merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunification services and setting a hearing under section 366.26. (Subd. (I).) Because the section 366.26 hearing is set for September 8, 1999, our decision is final in this court immediately. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A083060 -- The People v. Mario Lewis Stanford.

The order granting a new trial is reversed. The matter is remanded for further proceedings. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A082778 -- The People v. Phillip Ramon Knox.

The sentence is modified to reflect a consecutive 25 years to life term on count 10 and concurrent terms on the gun use clauses of counts 2 through 6, and 8. The judgment is otherwise affirmed. The trial court shall prepare and forward an amended abstract of judgment to the Department of Corrections. Haning, J. We Concur: Jones, P.J., Stevens, J. (Certified for Partial Publication.)

DIVISION FIVE

A082903 -- The People v. Jose Antonio Escareno.

The judgment of conviction is affirmed, however the one-year sentence enhancement imposed under section 12022, subdivision (b) is ordered stricken. The matter is remanded to the trial court with instructions to prepare a corrected abstract of judgment accordingly, and to forward the corrected abstract of judgment to the Department of Corrections. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday August 31, 1999

DIVISION ONE

**A085063 -- Rickey L. Davis v. California State Personnel Board;
California Department of Corrections, R.P.I.**

The judgment is affirmed. Stein, J. We concur: Strankman, P.J.,
Marchiano, J. (Not for Publication.)

A082621 -- In re Marriage of Noreen Martinez and Ernest Martinez.

The order is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J.
(Not for Publication.)

A084456 -- The People v. Reginald Derrick Eberhardt.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager,
J. (Not for Publication.)

**A085883 -- In re Carl T. H., a Person Coming Under the Juvenile Court
Law.**

There was no error in the dispositional process or the court's dispositional
orders. There are no legal issues that require further briefing. The order
adjudicating appellant a ward of the court pursuant to Welfare Institutions Code
section 602 and committing him to CYA is affirmed. Stein, J. We concur:
Strankman, P.J., Marchiano, J. (Not for Publication.)

Tuesday August 31, 1999 (continued)

DIVISION TWO

A084959 -- Carol Mardeusz v. Leo Magers.

By the Court: It is ordered that the opinion filed herein on August 11, 1999, be modified in the following particular; (SEE OPINION) This modification does not effect a change in the judgment. The Petition for Rehearing is denied. Haerle, Acting P.J.

A081327 -- Marin Country Club v. Bank Of San Francisco et al.

The trial court erred in granting summary judgment in favor of defendants. The judgment is reversed and the matter remanded to the trial court for further proceedings. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A080332 -- The People v. Bao Luu.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A087326 -- City of Richmond v. The Superior Court of Contra Costa; Contra Costa Newspapers, Inc., R.P.I.

By the Court: Respondent court having complied with the directive of paragraph (a) of the alternative writ issued by this court on August 16, 1999, the petition for writ of mandate is dismissed as moot. Haerle, Acting P.J.

A084658 -- Russell Troup et al., v. Ross Dodson et al.

The judgment is reversed. Each party to bear its own costs on appeal. Lambden J. Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A088079 -- In re Wendell I. James, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

Tuesday August 31, 1999 (continued)

A088165 -- Michael Smith v. The Superior Court of Contra Costa County; The People of the State of California, R.P.I.

By the Court: The petition for writ of mandate/prohibition is denied. Haerle, Acting P.J.

A088129 -- John E. Hallgren, et al., v. The Superior Court of Sonoma County; Anthony Meyn, et al.' R.P.I.

By the Court: The petition for writ of mandate/prohibition /stay is denied. Haerle, Acting P.J.

A087740 -- In re Fleckshane J., a Person Coming Under the Juvenile Court Law.

The petition for extraordinary writ is denied. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

A084600 -- The People v. Brice Anderson Sullivan III.

The judgment is affirmed. Parrilli, J. We concur; McGuiness, P.J., Corrigan, J. (Not for Publication.)

A081561 -- The People v. David Matheson Thomas.

The true findings on the prior conviction allegations described in Part 4, *ante*, are reversed. The judgment is otherwise affirmed. Parrilli, J. We concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

A085413 -- Mary Victoria Sargent v. City and County of San Francisco et al.

The judgment is reversed. Appellant to recover costs on appeal. Walker, J. We concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Tuesday August 31, 1999 (continued)

A083803 -- The Chronicle Publishing Company et al., v. Department of Developmental Services, State of California et al.

The trial court's order is affirmed. The chronicle shall recover its costs on appeal. Parrilli, J. We concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

A085357 -- Dana G. Johnson v. Andrew Allan Price et al.

The order is affirmed. McGuiness, P.J. We concur: Corrigan, J., Walker, J. (Not for Publication.)

A083675 & A085764 -- City and County of San Francisco v. William Pon et al.

The order appointing the receiver is affirmed. The appeal from the court's subsequent order approving construction and loan agreements is dismissed. Costs to respondent. Corrigan, J. We concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A082514 -- The People v. Hurley Richardson.

The judgment is affirmed. McGuiness, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Tuesday August 31, 1999 (continued)

DIVISION FOUR

A082273 -- Estate of Henri Leleu II, Deceased.

A084409 -- Henri Leleu III, as Conservator, etc., v. Joanne Noblitt.

The order granting summary judgment, filed in Superior Court No. 266501 on March 9, 1998, is reversed, as are the order settling supplemental account and report of conservator filed in Superior Court No. 263792 on July 24, 1998, and the order disposing of the parties' respective petitions under section 9860, also filed on July 24, 1998. This disposition will also vacate any other orders and actions based upon the order of March 9, 1998. (See 9 Witkin, Cal. Procedure (4th ed. 1997) Appeal, § 758, p. 784.) Appellant will recover her costs on appeal. Sepulveda, J. We concur: Poché, Acting P.J., Reardon, J. (Not for Publication.)

A082611 -- Commerce & Industry Insurance Company v. Chubb Custom Insurance Company.

The summary judgment is reversed. The parties shall bear their respective costs of appeal. Poché, Acting P.J. We concur: Reardon, J., Sepulveda, J. (Certified for Publication.)

A085275 -- Dan Briggs et al.v. Jack Ward et al.

A085683 -- Dan Briggs et al.v. Jeffrey A. Hartman.

The judgment and the attorney fees award are affirmed. Reardon, J. We concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

A083397 -- The People v. Calvin Peace.

The judgment is affirmed. Poché, Acting P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Tuesday August 31, 1999 (continued)

A087185 -- Miranda W., v. The Superior Court of California , County of Sonoma; Sonoma County Department of Human Services, R.P.I.

A087186 -- Leon W., v. The Superior Court of California, County of Sonoma; Sonoma County Department of Human Services., R.P.I.

The trial court's order in which reunification services were denied to Miranda W. and presumed father status was denied to Leon W. is affirmed. The petitions for extraordinary writ are hereby denied on the merits. (§ 366.26, subd. (1)(1); Cal. Rules of Court, rule 39.1B(d)(2).) This opinion is final forthwith. Hanlon, P.J. We concur: Poché, Acting P.J., Reardon, J. (Not for Publication.)

A073598 -- The People v. Kenneth R. Russo.

The judgment is hereby amended to strike the section 667.5, subdivision (b), enhancement. In all other respects, the judgment is affirmed. McGuiness, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

A084462 -- Snarled Traffic Obstructs Progress v. City and County of San Francisco et al; San Francisco Department of Parking and Traffic, R.P.I.

The judgment is affirmed. Poché, Acting P.J. We concur: Reardon, J., Sepulveda, J. (Certified for Publication.)

A083766 -- Estate of Carl Ray Nelson, Sr., Deceased.

The judgment is affirmed. Poché, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A080918 -- The People v. Toby Armon Evans.

The \$200 parole restitution fine is stricken. In all other respects the judgment is affirmed. Hanlon, P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)